

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 08-20429

TOMMIE DUNN,

Defendant.

ORDER DIRECTING THE GOVERNMENT TO FILE A SUPPLEMENTAL BRIEF

Defendant Tommie Dunn pleaded guilty on May 15, 2012, to four counts of robbery, 18 U.S.C. § 1951, two counts of attempted robbery, 18 U.S.C. § 1951, and one count of use of a firearm during a crime of violence. (Document 252, PageID.570-71.) On September 18, 2012, the court sentenced him to 219 months imprisonment. (*Id.*, PageID.572.)

Defendant has filed a “Pro Se Motion . . . for Compassionate Release.” (Document 303.) He argues the health risk presented by the Coronavirus Disease (“COVID-19”) at his location of confinement, FCI Memphis, justifies his immediate release. Defendant also filed a motion for appointment of counsel. (Document 307.)

The government filed a response opposing release, but it did not state Defendant’s COVID-19 vaccination status. (Document 309.) The Bureau of Prisons (“BOP”) has made substantial progress distributing COVID-19 vaccines to the federal prison population around the country and to date has administered over 171,000 doses

to staff and prisoners at BOP facilities. *COVID-19: Coronavirus*, Federal Bureau of Prisons, <https://www.bop.gov/coronavirus/> (last visited May 17, 2021).

Defendant's vaccination status is a consideration in determining whether compassionate release is warranted. See 18 U.S.C. § 3582(c)(1)(A) (requiring that a prisoner have "extraordinary and compelling" circumstances to obtain compassionate release).

Whether Defendant is fully vaccinated, or has declined an offered opportunity to become vaccinated, or has not been afforded such opportunity at all, that fact will impact the court's analysis of his motion to reduce sentence. Thus, the court will direct the government to file a supplemental brief stating whether Defendant has been offered a COVID-19 vaccine and whether he has been vaccinated.¹ Accordingly,

IT IS ORDERED that the government is DIRECTED to file a supplemental brief by **June 2, 2021**, stating whether or not Defendant has been offered a COVID-19 vaccine and, if so, whether he has received a COVID-19 vaccine.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: May 19, 2021

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 19, 2021, by electronic and/or ordinary mail.

s/Lisa Wagner /
Case Manager and Deputy Clerk
(810) 292-6522

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¹ No extraneous records need—nor should—be filed on the public docket in support of this attestation. In the interest of expediency, and to avoid needless documents filed under seal, the court invites the government's representation, consistent with counsel's Rule 11 obligations.